

## **Senate Bill No. 1028**

### **CHAPTER 669**

An act to amend Section 43013 of, and to add Section 39602.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor October 13, 2007. Filed with  
Secretary of State October 13, 2007.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 1028, Padilla. State Air Resources Board: regulations: ambient air quality standards: vehicles.

Existing law designates the State Air Resources Board as the state agency responsible for the preparation of the state implementation plan required by the federal Clean Air Act, and requires the state board to coordinate the activities of local air districts to comply with the act. The state board is authorized to adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants and sources of air pollution which the state board has found to be necessary, cost effective, and technologically feasible.

This bill would require the state board to adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants and sources of air pollution which the state board has found to be necessary, cost effective, and technologically feasible.

The bill would require the state board to adopt rules and regulations pursuant to these provisions that, in conjunction with other measures adopted by the state board, the districts, and the United States Environmental Protection Agency, will achieve ambient air quality standards, and if necessary to carry out this duty, to adopt and enforce rules and regulations that anticipate the development of new technologies or the improvement of existing technologies.

*The people of the State of California do enact as follows:*

**SECTION 1.** The Legislature finds and declares all of the following:

(a) The federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) requires the United States Environmental Protection Agency to establish national ambient air quality standards for criteria air pollutants at levels that are required to protect the public health with an adequate margin of safety. The federal Clean Air Act provides that state and local governments have primary responsibility for the control of air pollution.

(b) A number of areas within the state have not attained the national ambient air quality standards for ozone and particulate matter less than 2.5 microns in diameter (PM2.5).

(c) Serious public health impacts, including thousands of premature deaths per year, occur in the state as a result of ozone and PM2.5 levels exceeding the federal standards.

(d) State law requires air pollution control districts and air quality management districts to adopt and enforce rules and regulations to achieve and maintain the federal ambient air quality standards in all areas affected by emission sources under their jurisdiction. In order to attain the federal standards, it is also necessary for the State Air Resources Board to adopt rules to attain these standards.

(e) The South Coast Air Quality Management District and the San Joaquin Valley Unified Air Pollution Control District are the two most polluted areas in the nation for ozone and PM2.5. Other areas in the state also suffer significantly from these pollutants. Pollution sources that the State Air Resources Board is authorized to regulate are a substantial and increasingly important share of emissions contributing to nonattainment throughout California.

(f) In order for all areas of the state to achieve the federal ambient air quality standards, it is necessary for sources that the State Air Resources Board is authorized to regulate to reduce their emissions by a very substantial amount. For example, in the South Coast Air Basin, attaining the PM2.5 standard is expected to require reductions of oxides of nitrogen by over 30 percent, and attaining the ozone standard will require oxides of nitrogen reduction of over 75 percent.

(g) In order to ensure that all areas in the state attain the federal ambient air quality standards as expeditiously as practicable, it is necessary to require the state board to adopt every feasible rule and regulation, and to adopt rules and regulations that are sufficient, in conjunction with other applicable measures, to achieve and maintain the national ambient air quality standards by the applicable deadlines.

SEC. 2. Section 39602.5 is added to the Health and Safety Code, to read:

39602.5. (a) The state board shall adopt rules and regulations pursuant to Section 43013 that, in conjunction with other measures adopted by the state board, the districts, and the United States Environmental Protection Agency, will achieve ambient air quality standards required by the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) in all areas of the state by the applicable attainment date, and to maintain these standards thereafter. The state board shall adopt these measures if they are necessary, technologically feasible, and cost effective, consistent with Section 43013.

(b) If necessary to carry out its duties under this section, the state board shall adopt and enforce rules and regulations that anticipate the development of new technologies or the improvement of existing technologies. The rules and regulations shall require standards that the state board finds and determines can likely be achieved by the compliance date set forth in the rule.

SEC. 3. Section 43013 of the Health and Safety Code is amended to read:

43013. (a) The state board shall adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants and sources of air pollution which the state board has found to be necessary, cost effective, and technologically feasible, to carry out the purposes of this division, unless preempted by federal law.

(b) The state board shall, consistent with subdivision (a), adopt standards and regulations for light-duty and heavy-duty motor vehicles; medium-duty motor vehicles, as determined and specified by the state board; and off-road or nonvehicle engine categories, including, but not limited to, off-highway motorcycles, off-highway vehicles, construction equipment, farm equipment, utility engines, locomotives, and, to the extent permitted by federal law, marine vessels.

(c) Prior to adopting standards and regulations for farm equipment, the state board shall hold a public hearing and find and determine that the standards and regulations are necessary, cost effective, and technologically feasible. The state board shall also consider the technological effects of emission control standards on the cost, fuel consumption, and performance characteristics of mobile farm equipment.

(d) Notwithstanding subdivision (b), the state board shall not adopt any standard or regulation affecting locomotives until the final study required under Section 5 of Chapter 1326 of the Statutes of 1987 has been completed and submitted to the Governor and Legislature.

(e) Prior to adopting or amending any standard or regulation relating to motor vehicle fuel specifications pursuant to this section, the state board shall, after consultation with public or private entities that would be significantly impacted as described in paragraph (2) of subdivision (f), do both of the following:

(1) Determine the cost-effectiveness of the adoption or amendment of the standard or regulation. The cost-effectiveness shall be compared on an incremental basis with other mobile source control methods and options.

(2) Based on a preponderance of scientific and engineering data in the record, determine the technological feasibility of the adoption or amendment of the standard or regulation. That determination shall include, but is not limited to, the availability, effectiveness, reliability, and safety expected of the proposed technology in an application that is representative of the proposed use.

(f) Prior to adopting or amending any motor vehicle fuel specification pursuant to this section, the state board shall do both of the following:

(1) To the extent feasible, quantitatively document the significant impacts of the proposed standard or specification on affected segments of the state's economy. The economic analysis shall include, but is not limited to, the significant impacts of any change on motor vehicle fuel efficiency, the existing motor vehicle fuel distribution system, the competitive position of the affected segment relative to border states, and the cost to consumers.

(2) Consult with public or private entities that would be significantly impacted to identify those investigative or preventive actions that may be necessary to ensure consumer acceptance, product availability, acceptable performance, and equipment reliability. The significantly impacted parties shall include, but are not limited to, fuel manufacturers, fuel distributors, independent marketers, vehicle manufacturers, and fuel users.

(g) To the extent that there is any conflict between the information required to be prepared by the state board pursuant to subdivision (f) and information required to be prepared by the state board pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the requirements established under subdivision (f) shall prevail.

(h) It is the intent of the Legislature that the state board act as expeditiously as is feasible to reduce nitrogen oxide emissions from diesel vehicles, marine vessels, and other categories of vehicular and mobile sources which significantly contribute to air pollution problems.